

Message Text

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ACTION EUR-12

INFO OCT-01 AF-06 ARA-06 EA-06 NEA-09 IO-10 ISO-00 AID-05

CEA-01 CIAE-00 COME-00 EB-07 FRB-03 INR-07 NSAE-00

OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01

STR-01 SS-15 NSC-05 L-02 H-02 PRS-01 /111 W

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R 111647Z MAR 75

FM USMISSION OECD PARIS

TO SECSTATE WASH DC 5868

INFO AMEMBASSY ANKARA

USLO PEKING

AMEMBASSY ATHENS

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BRUSSELS

AMEMBASSY BUENOS AIRES

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY HELSINKI

AMEMBASSY LISBON

AMEMBASSY LONDON

AMEMBASSY MADRID

AMEMBASSY MONROVIA

AMEMBASSY MOSCOW

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AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PANAMA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY VIENNA

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AMEMBASSY WARSAW

AMEMBASSY WELLINGTON
AMCONSUL HAMBURG
AMCONSUL RIO DE JANEIRO
USMISSION EC BRUSSELS
USMISSION GENEVA
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E. O. 11652: N/A
TAGS: EFIN, OECD
SUBJECT: PAYMENTS COMMITTEE DISCUSSION OF UN LINER CODE

REF: (A) OECD C(74)235
(B) OECD PC(75)2 (1ST REVISION)

1. SUMMARY. PAYMENTS COMMITTEE (PC) CONCLUDED ITS DISCUSSION OF UN LINER CODE ON MARCH 10. SLIGHT MAJORITY OF COUNTRIES STILL SUPPORT INVISIBLES COMMITTEE CONCLUSION THAT THERE IS INCOMPATIBILITY BETWEEN UNITED NATIONS CONVENTION AND OECD INVISIBLES CODE, BUT THIS MAJORITY MAY NOT SURVIVE IN COUNCIL. LATTER EXPECTED TO BE CONSIDERED IN EXECUTIVE COMMITTEE IN ABOUT TWO WEEKS, AND IN COUNCIL EARLY APRIL. END SUMMARY.

2. AFTER FOUR SEPARATE MEETINGS AIMED AT FORMULATING ALTERNATIVE COUNCIL DECISIONS ACCEPTABLE TO COUNTRIES WITH OPPOSING VIEWPOINTS ON UN LINER CODE COMPATIBILITY, PC CONCLUDED ITS DELIBERATIONS MARCH 10 AND FORWARDED ITS REPORT (REF B) AND INVISIBLES COMMITTEE REPORT (REF A) TO EXECUTIVE COMMITTEE AND COUNCIL. OF COUNTRIES MAKING POSITIONS KNOWN AT PC, SLIGHT MAJORITY OF TEN COUNTRIES (AUSTRIA, DENMARK, FINLAND, GREECE, NETHERLANDS, NORWAY, SWEDEN, SWITZERLAND, UK AND US) SUPPORTED INVISIBLES COMMITTEE CONCLUSION OF INCOMPATIBILITY BETWEEN UN CONVENTION AND OECD CODE. SEVEN COUNTRIES (AUSTRALIA, BELGIUM, FRANCE, JAPAN, PORTUGAL, SPAIN AND TURKEY) MAINTAINED THAT TWO INSTRUMENTS ARE COMPATIBLE. CANADA, LIMITED OFFICIAL USE

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GERMANY AND NEW ZEALAND RESERVED THEIR POSITIONS, ALTHOUGH CLEARLY LEANING TOWARDS PRESENT MINORITY GROUP) VIEW FAVORING COMPATIBILITY ITALY STRADDLED FENCE BUT LEANED IN SAME DIRECTION. THUS, WHEN ISSUE ARRIVES AT COUNCIL, NUMBER OF COUNTRIES SUPPORTING COMPATIBILITY VIEW MAY WELL EXCEED NUMBER SUPPORTING INCOMPATIBILITY.

3. AT MARCH 10 MEETING OF PC, US DEL ATTEMPTED TO INSERT STATEMENTS IN PARAS 3 AND 4, REF B, WHICH WOULD CLEARLY STATE POSITIONS OF COUNTRIES WITH REGARD TO POSSIBLE CONFLICT. HIS SUGGESTION WAS ACCEPTED THAT PARA 3 BE AMENDED BY ADDING: "THESE COUNTRIES BELIEVE THAT THE PROVISIONS OF UNITED NATIONS CONVENTION COULD NEITHER BE ADHERED TO NOR IMPLEMENTED WITHOUT CREATING CONFLICT BETWEEN THE TWO INSTRUMENTS." HOWEVER, SIMILAR EFFORTS TO AMEND PARA 4 TO SPECIFICALLY STATE THAT MINORITY GROUP COUNTRIES BELIEVE UN CONVENTION CAN BE IMPLEMENTED WITHOUT CONFLICT WERE REJECTED BY THOSE COUNTRIES. FRENCH DEL GAVE REVEALING INSIGHT INTO FRENCH POSITION ON POSSIBLE CONFLICTS WHEN HE REFUSED TO ACCEPT STATMENT THAT CONVENTION COULD BE IMPLEMENTED WITHOUT CONFLICT WITH OECD CODE. HE SAID THERE MIGHT INDEED BE CONFLICTS IN IMPLEMENTATION, BUT IF THESE WERE TO ARISE THEY COULD BE SETTLED BY COMPETENT BODIES IN OECD OR BY BILATERAL DISCUSSIONS BETWEEN COUNTRIES. THUS, IT WOULD APPEAR THAT FRENCH ARE NOT CONVINCED THAT IMPLEMENTATION CAN BE ACHIEVED WITHOUT CONFLICTS WITH THEIR OECD OBLIGATIONS, BUT ARE HOPING TO ADHERE TO CONVENTION IN ANY CASE, AND WORK OUT ANY CONFLICTS LATER.

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INFO USLO PEKING
AMEMBASSY ANKARA

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4. IN ANOTHER REVEALING ADMISSION, FRENCH NOTED THAT THEY DO NOT CONSIDER SIGNING OF CONVENTION TO BE IN ANY WAY BINDING, SINCE SIGNATURE DOES NOT OBLIGATE FRANCE TO DO ANYTHING PRIOR TO RATIFICATION BY FRENCH PARLIAMENT, AND PARLIAMENT MAY NOT ACCEPT CONVENTION IN PRESENT MISSION FORM. NEW ZEALAND AGREED WITH THIS INTERPRETATION, WHILE UK TOOK STANCE THAT SIGNATURE IMPLIES INTENT TO RATIFY AND IN MANY GOVERNMENTS WOULD CONSTITUTE OBLIGATION FOR GOVERNMENT TO SEEK RATIFICATION BY PARLIAMENT.

5. MISSION WILL CONTINUE TO SUPPORT ADOPTION IN EXECUTIVE COMMITTEE AND COUNCIL OF DRAFT ENTRY WHICH WOULD (A) SUGGEST THAT FURTHER LEGAL CLARIFICATION OF UN CONVENTION BE OBTAINED FROM UNITED NATIONS OR OTHER APPROPRIATE BODIES, AND (B) REQUEST OECD MEMBER COUNTRIES NOT TO SIGN UN CONVENTION UNTIL SUCH CLARIFICATION HAS BEEN OBTAINED. WHILE CHANCE OF COUNCIL ACCEPTANCE OF (B) IS VIRTUALLY NIL (IN VIEW OF UNANIMITY RULE), WE WOULD HOPE THAT ENOUGH COUNTRIES COULD ACCEPT (A) SO THAT FURTHER DISCUSSION IN UN OR OTHER BODIES WOULD TAKE PLACE. SUCH DISCUSSION UNDOUBTEDLY WOULD DEMONSTRATE INTERNAL CONTRADICTIONS OF CONVENTION AND WOULD MAKE GROUP OF 77 AWARE OF POSITION OF OECD POTENTIAL SIGNATORIES WHO HAVE CLAIMED THAT THEY SEE NO CONFLICT WITH OECD CODE BECAUSE PROVISIONS OF UN CONVENTION ARE NOT MANDATORY. WE ANTICIPATE THAT SUCH POSITION WOULD BE UNACCEPTABLE TO GROUP OF 77, WHO BELIEVE CONVENTION LIMITED OFFICIAL USE

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TO BE CLEARLY MANDATORY FOR ALL SIGNATORIES.
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Message Attributes

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